

IN THE MATTER OF
THE APPLICATION OF
JONATHAN JOSEPH GWYNN
FOR A MORTGAGE ORIGINATOR
LICENSE

BEFORE THE COMMISSIONER
OF
FINANCIAL REGULATION
Case No. FIN-07-29

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STATEMENT OF THE CASE

The hearing of the above captioned matter was held on October 16, 2007, and pursuant to Financial Institutions Article ("FI"), § 2-103 Annotated Code of Maryland was heard by the Deputy Commissioner of Financial Regulation, Joseph E. Rooney ("Deputy Commissioner"). This matter was scheduled for a hearing as a result of a decision by the Office of the Commissioner pursuant to FI Section 11-607(e), to deny the Applicant, Jonathan Joseph Gwynn, a mortgage originator license [Comm'r Exhibit # 5]. The denial was based on the following: a) Applicant's failure to satisfy the Commissioner that the Applicant is of good moral character and has the general fitness to warrant the belief that the Applicant will act as a mortgage originator in a lawful, honest, fair and efficient manner as required by FI § 11-605(a)(2); and b) a prior felony or misdemeanor conviction of Applicant that is directly related to Applicant's fitness and qualification to act as a mortgage originator, in violation of FI §§ 11-605(b) and 11-615(a)(2). Documentation reviewed by the Office of the Commissioner reflects that on or about October 2, 2006, Applicant was convicted by the Circuit Court for Baltimore County of a felony, fraud per identity theft [Comm'r Exhibit # 8].

Applicant was represented by Chris Purpura, Esquire. Christopher Young, Assistant Attorney General, appeared as presenter of evidence on behalf of the Commissioner. Thomas L. Gounaris, Assistant Attorney General served as counsel to the Commissioner. The proceedings

were electronically recorded.

FINDINGS OF FACT

From the testimony and exhibits presented, and with the opportunity to observe the demeanor of the witnesses and to assess their credibility, the Deputy Commissioner finds the relevant facts to be these:

1. On or about September 21, 2006, Applicant submitted an application for a mortgage originator license [Comm'r Exhibit # 7].
2. On or about October 2, 2006, Applicant was convicted by the Circuit Court for Baltimore County of felony fraud per identity theft. Applicant was sentenced to three years confinement, which sentence was suspended, and eighteen months of supervised probation. In addition, Applicant was ordered to pay restitution in the amount of \$12,000. [Comm'r Exhibits # 8].
3. On or about July 1, 2003, a judgement in the amount of \$1,500 was entered against Applicant by the District Court of Maryland for Baltimore County in *Bernard and Shelia Briggs v. Jonathan J. Gwynn* (Case No. 0029869-2002). The facts in the case directly related to Applicant's activities as an employee of a mortgage broker [Comm'r Exhibit # 9].

CONCLUSIONS OF LAW

Based on the Findings of Fact, the Deputy Commissioner concludes as a matter of law under FI § 11-605 that the Applicant should not be granted a mortgage originator license at this time. To qualify for a mortgage originator license, an applicant must satisfy the Commissioner that the applicant is of "good moral character and has general fitness to warrant the belief that the applicant will act as a mortgage originator in a lawful, honest, fair, and efficient manner". FI § 11-605(a)(2). The Commissioner may also deny an application for any reason that a license may be revoked or

suspended under either the Mortgage Originator Law (FI § 11-601 *et seq.*) or the Mortgage Lender Law (FI § 11-501 *et seq.*) FI § 11-607(e)(2). Conviction under the laws of the United States or any state of a felony or misdemeanor that is directly related to the fitness and qualification of an individual to act as a mortgage originator is one such ground. FI § 11-615(a)(2). Another ground is the demonstration of unworthiness, bad faith, dishonesty, or any other quality that indicates that the business of the mortgage originator has not been or will not be conducted honestly. FI § 11-615(a)(5).

When denying a license because of a criminal conviction, the Commissioner is required to consider the following: (1) the nature of the crime; (2) the relationship of the crime to the activities authorized by the license; (3) with respect to a felony, the relevance of the conviction to the fitness and qualification of the licensee or applicant to engage in the mortgage origination business; (4) the length of time since the conviction; and (5) the behavior and activities of the applicant since the conviction.

In this case, the crime of which Applicant was convicted is a crime of dishonesty in connection with a financial transaction. While counsel for Applicant argued that the crime was not related to a mortgage transaction, and, thus, should not negatively impact a mortgage originator license application; that argument is unconvincing. In fact, the conviction could scarcely be more closely related to the activities authorized by a mortgage originator license - it involved the criminal misuse of personal information, not unlike the personal information routinely disclosed to a mortgage originator by a borrower. Applicant's identity theft conviction demonstrates a high disregard for the rule of law and his duty to his customer. This failure is made all the worse by the significant number of years the Applicant had been employed in the mortgage industry prior to the

violation. While the testimony on behalf of Applicant by several character witnesses is impressive, and Applicant's satisfaction of the court-ordered restitution is to be commended, it is significant that his conviction occurred only one year ago. This is a very recent conviction, and, indeed, occurred after he had applied for a mortgage originator license. Moreover, it is noted that his period of supervised probation has not yet been completed.

In addition to Applicant's criminal conviction, the Deputy Commissioner is troubled by the additional evidence of the 2003 civil judgement against Applicant. While Applicant testified that he had no knowledge of the judgement, the fact remains that it is a final judgement and that it involved his collection of an excessive finder's fee from a borrower. This raises additional concerns as to how Applicant would conduct his mortgage origination activities.

While the Deputy Commissioner notes that Applicant's remorse and desire to rehabilitate himself appear genuine, he must conclude, based upon the evidence before him, Applicant is not presently qualified to be granted a mortgage originator license. The Deputy Commissioner's denial of Applicant's license at this time does not act as a permanent bar to his reapplying for a mortgage originator license at a future time.

FINAL ORDER

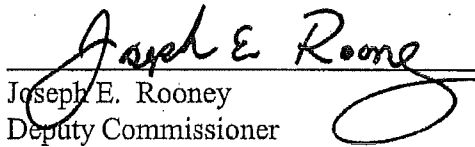
In consideration of the foregoing Findings of Fact and Conclusions of Law, it is this 18th day of October, 2007, hereby **ORDERED** that:

Applicant, Jonathan Joseph Gwynn, is **DENIED** a mortgage originator license, pursuant to FI § 11-607(e).

Pursuant to State Govt. Art., Section 10-222, any party who is aggrieved by the Commissioner's decision, may file a petition for judicial review with the Circuit Court for the

county where any party resides or has a principal place of business. Such petition must be filed within 30 days after Applicant's receipt of this Order (Md. Rule 7-203). The filing of a petition for judicial review does not automatically stay the enforcement of the Final Order.

COMMISSIONER OF FINANCIAL REGULATION



Joseph E. Rooney
Deputy Commissioner